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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,165	06/02/2006	Scrivas Gutta	P08655US01	3089
22885 7590 05/27/2009 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721				
EXAMINER				
VO, CECILE H				
ART UNIT		PAPER NUMBER		
2169				
MAIL DATE		DELIVERY MODE		
05/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,165

Applicant(s)

GUTTA ET AL.

Examiner

CECILE VO

Art Unit

2169

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/01/2009 has been entered.
2. Claims 1-4 and 6-15 are pending as amended on 05/01/2009, with claim 1 being independent. Claim 1 is currently amended. Claims 5 and 16-23 are cancelled.

Response to Arguments

3. Applicant should submit an argument to discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Since Applicants are silent on the ground the Examiner set forth for the Final Rejection of 11/05/2008. Examiner hereby respectfully maintaining the same grounds of rejections to the claims under 35 USC 102(e).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 and 6-15 rejected under 35 U.S.C. 102(e) as being anticipated by Schaffer et al. (hereinafter referred to as Schaffer), US Pub. Number 2006/0026642 A1.

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Schaffer discloses a method for generating a recommendation of at least one television program for a viewer (see abstract, lines 1-5), the method comprising:

using the viewer's television program recommender to access a plurality of user's recommenders at locations remote from that at which the viewer is located (e.g. The audience predictor (as *viewer's television program recommender*) can collect the viewing histories, by directly sampling the program choices of each user or by receiving a viewing history over a network from the set-top terminal or television of each user, §0026, lines 1-5);

using the viewer's recommender to communicate with a selection of the user's recommender to generate data representing, at least one of a negative and positive example feedback from one or more selected other users recommenders to be received (e.g. The audience predictor can communicate with the set-top terminal or television of each user in any known manner, including one or more wired or wireless links (or both). While the present invention is illustrated herein in the context of television programming predictions, the present invention can be applied to any automatically generated recommendations that are based on an evaluation of user behavior, such as a viewing history or a purchase history, §0026, lines 5-13. Wherein, the viewing histories use to generate user profiles; and user profile provides corresponding positive and negative program example, §0036, lines 1-3); and

determining a recommendation for at least one television program to be watched in the future by the viewer based on at least one of the received negative and positive examples feedback (e.g. the present invention can be applied to any automatically generated recommendations that are based on an evaluation of user behavior, such as a viewing history or a purchase history, §0026, lines 10-13);

said determination of the recommendation being performed at the viewer location utilizing a processor provided as part of the viewer's television program recommender (e.g. The audience predictor 100 may be embodied as any computing device, such as a personal computer or workstation, that contains a processor 150, §0027, lines 1-3).

Regarding claim 2, Schaffer discloses the method further comprising generating a user profile for the user based on previous behavior of the user, wherein the determining comprises determining the recommendation based on the negative example and the user profile (e.g. the profiling process processes the viewing histories to generate the corresponding user profiles, §0029, lines 1-2).

Regarding claim 3, Schaffer further discloses wherein the generating of the user profile comprises generating an implicit user profile (As shown in Fig. 3, the implicit user profile 300 contains a plurality of records 305-313 each associated with a different program feature, §0035, lines 2-4).

Regarding claim 4, Schaffer further discloses wherein the determining comprises determining the recommendation based on the negative and positive examples (§0045, lines 3-6).

Claim 5 is cancelled.

Regarding claim 6, Schaffer discloses the method further comprising:
mapping the negative example to an electronic program guide database of the user (§0025, lines 3-7); and
determining an equivalent negative example for the user from the electronic program database (e.g. the program recommendation process generates program recommendation scores for the programs in a time period of interest, based on the feature counts in the user profiles, §0045, lines 3-6).

Regarding claim 7, Schaffer discloses the method further comprising:
mapping the positive example to an electronic program guide database of the user (§0025, lines 3-7); and
determining an equivalent positive example for the user from the electronic program database (§0045, lines 3-6).

Regarding claim 8, Schaffer discloses the method further comprising determining the one or more other users (e.g. a number of users, §0025, line 5).

Regarding claim 9, Schaffer further discloses wherein the determining comprises selecting the one or more other users based on geographical location of the one or more other users (e.g. selected for the user based on his or her demographics, §0036, lines 13-14).

Regarding claim 10, Schaffer further discloses, wherein the determining comprises selecting the one or more other users based on a similarity of likes and/or dislikes with the one or more other users (§0044, lines 1-7).

Regarding claim 11, Schaffer further discloses wherein the determining comprises selecting the one or more other users by the user (§0049, lines 1-6).

Regarding claim 12, Schaffer further discloses, wherein the selecting comprises: presenting a plurality of other users to the user (e.g. As shown in Fig. 1 the audience predictor 100 uses the raw viewing histories of a number of users to predict the size of an audience, §0025, lines 3-6); and

the user selecting from among the plurality of other users to determine the one or more other users (e.g. Fig. 3 is a table illustrating an exemplary implicit user profile contains a plurality of records each associated with a different program feature, §0035, lines 1-4).

Regarding claim 13, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on geographical location of the one or more other users (§0021, lines 1-6).

Regarding claim 14, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on a similarity of likes and/or dislikes of the one

or more other users (e.g. Fig. 4 is a table from the program database of figs 1 and 2, with field 480 is record and indication of the predicted audience as determined by the audience prediction process, §0038, lines 1-2 ad 0039) .

Regarding claim 15, Schaffer further discloses, wherein the selecting comprises the user indicating the one or more other users (§0026, lines 1-5).

Claims 16-23 are cancelled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CECILE VO whose telephone number is (571)270-3031. The examiner can normally be reached on Mon - Thu (9AM - 5:00PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on 571-272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 22, 2009
/Cam Y Truong/
Primary Examiner, Art Unit 2169

/Cecile Vo/
Examiner
Art Unit 2169